SUPREME COURT, U.S.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, ~~1948~~ 49

No. ~~711~~ 49

HELEN PARKER, IONE LANE WHEELER, KATHERINE GATES, CORNELIUS WEBSTER, WILLIAM G. COLE, J. L. MARTIN, ROBERT L. McGUIRE, JULLEANA GLISBY, ALICE M. PARSONS, CAROLINE POTTENGER, JOHN R. McCROSKEY, MATTIE A. BELINO, ADA GRUVER, MAJOR WEST, ALICE WALSH, C. H. DEMAREST, BETTY S. SELDEN, MIRIAM LASAROU, RALPH L. DAVIS, WINIFRED McCONNELL, COLUMBUS S. BELL, SHIRLEY GALAT, RUTH THOMASEN, KENT HAMMOND THIES, LAWRENCE LUCKS,

Petitioners,

vs.

COUNTY OF LOS ANGELES; WILLIAM A. SMITH, LEONARD J. ROACH, JOHN ANSON FORD, RAYMOND V. DARBY AND ROGER W. JESSUP, AND EACH OF THEM AS MEMBERS OF THE BOARD OF SUPERVISORS OF SAID COUNTY; WAYNE ALLEN, AS CHIEF ADMINISTRATIVE OFFICER OF SAID COUNTY; HAROLD W. KENNEDY, AS COUNTY COUNSEL OF SAID COUNTY; CHARLES C. MACK, G. H. NEWLAND AND T. J. O'KEEFE, AND EACH OF THEM, AS MEMBERS OF THE CIVIL SERVICE COMMISSION OF SAID COUNTY; CLIFFORD AMSDEN, AS SECRETARY AND CHIEF EXAMINER OF SAID COMMISSION; MICHAEL DONOGHUE, AS REGISTRAR OF VOTERS OF SAID COUNTY.

No. ~~712~~ 50

JULIA LEARNED STEINER,

Petitioner,

vs.

COUNTY OF LOS ANGELES; WILLIAM A. SMITH, LEONARD J. ROACH, JOHN ANSON FORD, RAYMOND V. DARBY AND ROGER W. JESSUP, AND EACH OF THEM AS MEMBERS OF THE BOARD OF SUPERVISORS OF SAID COUNTY; WAYNE ALLEN, AS CHIEF ADMINISTRATIVE OFFICER OF SAID COUNTY; HAROLD W. KENNEDY, AS COUNTY COUNSEL OF SAID COUNTY; CHARLES C. MACK, G. H. NEWLAND AND T. J. O'KEEFE, AND EACH OF THEM, AS MEMBERS OF THE CIVIL SERVICE COMMISSION OF SAID COUNTY; CLIFFORD AMSDEN, AS SECRETARY AND CHIEF EXAMINER OF SAID COMMISSION; MICHAEL DONOGHUE, AS REGISTRAR OF VOTERS OF SAID COUNTY.

PETITION FOR WRITS OF CERTIORARI TO THE DISTRICT COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1948

No. 711

HELEN PARKER, IONE LANE WHEELER, KATHERINE GATES, CORNELIUS WEBSTER, WILLIAM G. COLE, J. L. MARTIN, ROBERT L. McGUIRE, JULLEANA GLISBY, ALICE M. PARSONS, CAROLINE POTTENGER, JOHN R. McCROSKEY, MATTIE A. BELINO, ADA GRUVER, MAJOR WEST, ALICE WALSH, C. H. DEMAREST, BETTY S. SELDEN, MIRIAM LASAROU, RALPH L. DAVIS, WINIFRED McCONNELL, COLUMBUS S. BELL, SHIRLEY GALAT, RUTH THOMASEN, KENT HAMMOND THIES, LAWRENCE LUCKS,

Petitioners,

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COUNTY OF LOS ANGELES; WILLIAM A. SMITH, LEONARD J. ROACH, JOHN ANSON FORD, RAYMOND V. DARBY AND ROGER W. JESSUP, AND EACH OF THEM AS MEMBERS OF THE BOARD OF SUPERVISORS OF SAID COUNTY; WAYNE ALLEN, AS CHIEF ADMINISTRATIVE OFFICER OF SAID COUNTY; HAROLD W. KENNEDY, AS COUNTY COUNSEL OF SAID COUNTY; CHARLES C. MACK, G. H. NEWLAND AND T. J. O'KEEFE, AND EACH OF THEM, AS MEMBERS OF THE CIVIL SERVICE COMMISSION OF SAID COUNTY; CLIFFORD AMSDEN, AS SECRETARY AND CHIEF EXAMINER OF SAID COMMISSION; MICHAEL DONOGHUE, AS REGISTRAR OF VOTERS OF SAID COUNTY.

No. 712

JULIA LEARNED STEINER,

Petitioner,

vs.

COUNTY OF LOS ANGELES; WILLIAM A. SMITH, LEONARD J. ROACH, JOHN ANSON FORD, RAYMOND V. DARBY AND ROGER W. JESSUP, AND EACH OF THEM AS MEMBERS OF THE BOARD OF SUPERVISORS OF SAID COUNTY; WAYNE ALLEN, AS CHIEF ADMINISTRATIVE OFFICER OF SAID COUNTY; HAROLD W. KENNEDY, AS COUNTY COUNSEL OF SAID COUNTY; CHARLES C. MACK, G. H. NEWLAND AND T. J. O'KEEFE, AND EACH OF THEM, AS MEMBERS OF THE CIVIL SERVICE COMMISSION OF SAID COUNTY; CLIFFORD AMSDEN, AS SECRETARY AND CHIEF EXAMINER OF SAID COMMISSION; MICHAEL DONOGHUE, AS REGISTRAR OF VOTERS OF SAID COUNTY.

PETITION FOR WRITS OF CERTIORARI TO THE DISTRICT COURT OF APPEAL OF THE STATE OF CALIFORNIA, SECOND APPELLATE DISTRICT.

Petitioners pray that Writs of Certiorari issue to review the decisions and judgments of the California District Court of Appeal, Second Appellate District, entered on

November 12, 1948 (P. 47)[1] affirming the judgments of the Superior Court of the State of California in and for the County of Los Angeles, entered March 9, 1948 (P. 34; S. 34) which sustained respondents' demurrers to petitioners' amended complaints without leave to amend (P. 34; S. 34). The Supreme Court of California denied a hearing (P. 76; S. 49).

Opinions Below

The opinion of the Superior Court (P. 35) is not reported. The opinion of the District Court of Appeal (P. 47) is reported in 88 Advance California Appellate Reports 487. The Supreme Court of California rendered no opinion in entering its order denying a hearing (P. 76; S. 607).

Jurisdiction

The judgments of the District Court of Appeal were entered November 12, 1948 (P. 47, 63; S. 47, 48). The order of the Supreme Court of California denying a hearing was entered January 10, 1949 (P. 76; S. 49).

The constitutional issues here presented were urged in the trial court (P. 8-16; S. 7-13, 32), considered by it (P. 39) where they were overruled (P. 39-43, 34); they were urged before and considered by the District Court of Appeal (P. 49, 60-61) where they were also overruled (P. 56, 57-63; S. 48); and they were urged before the Supreme Court of California (P. 69-74) which Court declined to grant a hearing thereon, one Justice voting in favor of granting such a hearing (P. 76; S. 49).[2]

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[1] References to the Parker record will be thus: (P. 1) and to the Steiner record thus: (S. 1). The documents common to both cases have, in accordance with Rule 38 (8) of this Cou ., not been reprinted twice but are printed in Parker only. As is seen from these documents, they were joint documents in both cases, e.g.: consolidated opinion of trial court (P. 35); opinion of court below (P. 47).

[2] Under California law a hearing in the State Supreme Court after a decision in the District Court of Appeal is discretionary with the State

The jurisdiction of this Court is invoked under 28 U. S. C. 1257 (3) and 2101 (c).

State Action Involved

The issues presented in these cases arise out of a compulsory oath and affidavit required of all county employees, as a condition of continued employment, by the Los Angeles County Board of Supervisors as part of a program of investigation adopted and ordered by said board. The program adopted and ordered appears in the Record at P. 16-25 and S. 15-23. The compulsory Oath and Affidavit is, for the convenience of the Court, set forth in the Appendix, *infra*.

Statement

Facts—There are no disputed issues of fact, the trial court having sustained respondents' demurrers (P. 25; S. 23) to petitioners' amended complaints (P. 1; S. 1, 32) without leave to amend (P. 34; S. 34). Accordingly, the facts before this Court are found in the amended complaints and in the document attached thereto as Exhibit "A" (P. 16; S. 15) which is incorporated in and made a part of the complaints (P. 5; S. 3). The facts, as framed by the complaints and demurrers, are as follows:

Petitioners are citizens of the United States (P. 2-3; S. 1) and permanent civil service employees of the respondent Los Angeles County (P. 2-3; S. 1). Said County employs approximately 20,000 like persons (P. 3; S. 2).

Supreme Court. (Calif. Const. Art. VI, Sees. 4 and 4 c; Rules 28 and 29, Rules on Appeal for the Supreme Court and District Courts of Appeal of the State of California.) Petitioners applied for hearing in this case and were denied. (P. 76; S. 49). This Court's writ is properly directed, therefore, to the District Court of Appeal. (*Randall* v. *Board of Commissioners*, 252 U. S. 22; *American Railway Express Co.* v. *Levee*, 263 U. S. 19; *Western Union Telegraph Co.* v. *Priester*, 276 U. S. 252; *Chesapeake and Ohio R. Co.* v. *Mihas*, 280 U. S. 102).

Respondent Los Angeles County is a political subdivision of the State of California (P. 3; S. 2) and the individual respondents are certain elected or appointed officers of the County (P. 3-4; S. 2) including the elected members of the County Board of Supervisors (P. 3; S. 2).

On April 1, 1947 the respondent members of the County Board of Supervisors directed the respondent County Chief Administrative Officer and the County Counsel to study, prepare and recommend ways and means to inquire into the political beliefs and associations of all county employees in order to determine whether there were in the employ of the county "any members of the Communist Party of the United States, avowed or otherwise" or any "communistic" or "subversive" persons (P. 4-5; S. 3).

On August 15, 1947 these two respondents presented in writing to the Board of Supervisors a program of investigation which they recommended (P. 5, 16; S. 3, 15).

On August 26, 1947 the Board of Supervisors accepted the recommended program of investigation, adopted it without change and ordered it put into operation (P. 5; S. 4).

Under the program as adopted the respondent County Board of Supervisors ordered and required a committee composed of the respondents County Chief Administrative Officer, County Sheriff, Secretary of the County Civil Service Commission and the County Counsel to institute and administer the program for the purpose of ascertaining whether any county employees were "subversively inclined persons" (P. 18; S. 16).

In pursuit of that purpose and objective the committee was directed and ordered to employ a number of means and methods of investigation including the institution of a compulsory Oath and Affidavit to be required of all county employees (P. 17; S. 15).

Under Paragraph "D" of the compulsory Oath and Affidavit county employees are required to disclose whether

they have ever "been a member of, or directly or indirectly supported or followed" (P. 20; S. 18) any of 144 named lawful organizations or 2 named lawful publications. The scope of the disclosure thus required is revealed by an examination of the listed organizations and publications which include among others the following (P. 20-25); S. 18-23 and Appendix, *infra*):

Named Publications; e. g.:
- Daily Worker
- New Masses

Named Veterans' Organizations; e. g.:
- American Veterans Committee

Named Religious Organizations; e. g.:
- Humanist Society of Friends

Named Labor Unions; e. g.:
- American Communications Association
- Federation of Architects, Engineers, Chemists and Technicians
- United Federal Workers
- Workers Alliance
- Marine Cooks and Stewards

Named Political Organizations; e. g.:
- American Communist Party
- Farmer Labor Party
- Hollywood Independent Citizens Committee or Arts, Sciences and Professions
- National Citizens Political Action Committee

Named Organizations Dealing with Foreign Affairs; e. g.:
- American Committee for a Free Indonesia
- Committee for Boycott Against Japanese Aggression
- League Against War and Fascism
- American Russian Institute
- Anti-Nazi League
- Joint Anti-Fascist Refugee Committee

Named Organizations Dealing with Civil Rights and Discrimination; e. g.:

American Committee for the Protection of the Foreign Born
Bay Area Council Against Discrimination
Civil Rights Congress
International Labor Defense
National Negro Council
National Federation for Constitutional Liberties

Named Organizations Dealing with Civic Affairs; e. g.:

Hold the Price Line Committee
League of Women Shoppers
Citizens Committee for Better Education

Named Schools; e. g.:

California Labor School
Communist Workers School

Under Paragraph "B" of the compulsory Oath and Affidavit county employees are required to disclose whether they have since December 7, 1941 ever advocated or been a member of any political party or organization that advocates the overthrow of the Governments of the United States or of the State of California or of the County of Los Angeles, by force or violence and to pledge under oath that while in the employ of the county they will not so advocate or join any political party or organization which so advocates (P. 19; S. 17-18).

Any county employee, including petitioners, who fails or refuses to execute the Oath and Affidavit is to be discharged from county employ (P. 5; S. 4).

The committee is ordered and directed, if it decides, on the basis of any answer to the Oath and Affidavit or as a result of any of the other parts of its ordered investigation, that any employee is "subversively inclined", to publicly

report such individual to the respondent County Board of Supervisors together with a recommendation as to appropriate action to be taken (P. 18-19; S. 17).

Petitioners in their amended complaints sought injunctions prohibiting the respondent County and the several respondent officers thereof from requiring petitioners, on pain of discharge, to execute the Oath and Affidavit or from otherwise enforcing or applying the County's program of investigation into thought, speech and association against petitioners and for declaratory relief (P. 14-16; S. 13-14). As above stated, the trial court sustained demurrers to the amended complaints without leave to amend (P. 34; S. 34) and the court below affirmed (P. 47).

Decisions Below—The Superior Court considered and rejected petitioners' claims that paragraphs "D" and "B" of the Oath and Affidavit violated their rights under "the provisions of the First and Fourteenth Amendments of the Federal Constitution" (P. 39, 43). That court relied on *United Public Workers* v. *Mitchell*, 330 U. S. 75, declaring that that decision had "answered these identical contentions" and had held adversely to them (P. 41).

The court below similarly considered and rejected petitioners' claims saying "there is nothing in the Oath or Affidavit which requires plaintiffs to surrender any constitutional right." (P. 56.) That court opined that petitioners were both disloyal and insane in contending that the Oath and Affidavit violated the Constitution. It said: "The mere asking of the question (as to whether petitioners could be compelled to make the disclosures required by the Oath and Affidavit) points unerringly to the answer any *loyal, sane* citizen of the United States of America would give to it. It is an unequivocal 'yes' ". (P. 49.) The court supported its decision by stating that whenever a person accepts government employment "he impliedly surrenders

certain natural rights which would remain his if he were a private citizen only just the same as he would surrender certain privileges if he were to enter private employment" (P. 51-52). And further that, since the Government of the United States had the right to draft persons for military service which may result in his loss of life, "any state in attempting to perpetuate its loyalty to the union has the unquestioned right and duty to exact from its citizens adherence to *all* lesser measures which have for their purpose the preservation of our form of government and the repression of its enemies." (P. 51.) (Italics added.) The court concluded its opinion by adopting the opinion of the Superior Court. (P. 57.)

Questions presented

(1) Whether, on its face or as applied in this case, Paragraph "D" of the Oath and Affidavit which compels all county employees to disclose their membership in or direct or indirect support or following of any of 144 named lawful organizations and 2 named lawful publications deprives petitioners of the liberties of freedom of speech, press, religion, thought, association, assembly or the right to privacy of conscience, without due process of law in violation of the First and Fourteenth Amendments to the Constitution.

(2) Whether, on its face or as applied in this case, Paragraph "B" of the Oath and Affidavit similarly deprives petitioners of those liberties and rights without due process of law in violation of those amendments.

Reasons for Granting the Writs

The court below, in sustaining the power of the County in the instant cases to impose on all County employees the compulsory Oath and Affidavit over the claims of those employees that they are thereby deprived of fundamental

Constitutional rights, has decided Federal questions of the greatest import which this Court has never determined, and has decided those questions in a manner inconsistent with the principles contained in the decisions of this Court which bear most closely thereon. The concept that one, even a public employee, must account to his superior and declare under oath as to the newspapers and magazines he may choose to read, as to the causes he may embrace and the lawful associations he may have entered in furtherance thereof, or as to the manner in which he may choose to worship his God, is a concept utterly foreign to this country.

The questions concerned are of greatest consequence and import. They affect not merely the rights of 20,000 residents of the County of Los Angeles, but the rights of 1/10th of the nation's employed population, the percentage which today is employed in one or another capacity by Governmental agencies, either local, state or federal.[3] Similar Oaths and Affidavits intruding upon the claimed rights of Government employees to privacy of conscience and freedom of speech are either presently in force or immediately in prospect under proposed legislation in all sections of our land. (*Our Uncertain Liberties*, U. S. Liberties, 1947-1948, American Civil Liberties Union Annual Report, N. Y. P. 23.)

The well-being of the nation imperatively calls for the guidance which this Court, alone, may give as to the correct and constitutional limits of Governmental power in this area. It is petitioners' respectful contention that in the instant case those limits have been gravely exceeded.

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[3] See the monthly figures for 1948 in "Survey of Current Business," Department of Commerce, Bureau of Census. In April 1948, 5,900,000 persons were employed by either federal, state or local governments out of a total of 58,330,000 employed throughout the nation. In July the figures were 5,596,000 and 60,312,000.

In petitioners' view, Paragraph "D" of the Oath and Affidavit, on its face and as applied in this case, offends the First and Fourteenth Amendments in that by its very terms it operates directly and specifically on exercises of freedom of speech, press, religion, thought, association and assembly. Moreover, it requires disclosures shocking in breadth contrary to the right of privacy of conscience to which petitioners are entitled. Furthermore, the force of Paragraph "D" as applied makes it no mere nominal burden on the liberties concerned improper in principle alone, but rather one which directly tends to coerce and intimidate petitioners in their free exercise of those liberties.

In these premises, petitioners submit that the invasions of liberties so occasioned may not be excused or justified on the basis of the Government employment status of petitioners. Though petitioners earn their livelihood by working for the County, they remain citizens as well as employees, and though the County, here, may be called an employer, it remains, nonetheless, a Government as well, limited as are all Governments, by the mandatory provisions of the Federal Constitution. To permit the sweeping abridgement of petitioners' rights worked by Paragraph "D" in the name of insuring American Constitutional Government against real or supposed international insecurity would be to permit a most tragic error. It would be to sever the arteries which give life to such Government in the name of preserving that Government's well-being. Without freedom of speech, free Government ceases to exist. "When that door is closed, it closes all doors behind it."

Petitioners also and separately respectfully submit that Paragraph "B" of the Oath and Affidavit violates the First and Fourteenth Amendments in similar manner and for similar reasons.

I. The requirement under Paragraph "D" of the Oath and Affidavit that petitioners disclose to the State membership in or direct or indirect support or following of 144 named lawful organizations and 2 named lawful publications violates petitioners' rights to freedom of speech, press, religion, thought, association and assembly contrary to the First and Fourteenth Amendments.

A. *The Requirement of the Oath and Affidavit Misapprehends the Scope, Significance and Role of the First Amendment Liberties and Unconstitutionally Impedes the People in Their Discharge of Governmental Functions Allocated to Them by the Constitution.*

Under Paragraph "D" of the Oath and Affidavit in the instant case, the State of California, through its agency the County of Los Angeles, asserts power to demand of petitioners and the 20,000 other persons in its employ a compulsory accounting under oath as to the manner in which they have exercised the fundamental and elemental liberties of self-governing people, freedom of speech and its correlatives. It commands them to disclose on pain of forfeiture of their means of livelihood membership in or support or following of any of 144 named lawful organizations and 2 named lawful publications.

In holding this command valid, the court below has departed from decisions of this Court which are controlling in principle and has fundamentally misconceived the scope, significance and rule of the rights of freedom of speech, press, thought, association and assembly secured by the First Amendment [4] and the relation which the people of the United States while exercising those rights bear toward all governmental bodies or officers, State or Federal.

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[4] Which the Fourteenth Amendment makes applicable to the States, *Cantwell* v. *Connecticut*, 310 U. S. 296, 303.

The core of our form of government is that it is self-government of and by the people themselves. It was the people of the United States who established the Nation's Constitution in the original and through it they determined with supreme authority the distribution of all governmental powers which might thereafter be exercised anywhere in the land. Certain powers they allocated to the several states, certain other powers they allocated to the Federal government, and finally, certain powers, including the greatest powers of all, the powers of ultimate sovereignty, they affirmatively reserved to themselves. Under the Constitution the people themselves are constituted the "ultimate tribunal" of the nation, charged with finally selecting truth from falsity and wisdom from error in every field of thought and activity and with resolving ultimate choices of policy in all areas of our nation's life. To them, acting by and through the processes of popular government, is entrusted ultimate responsibility to shape the whole destiny of the country. *Yick Wo* v. *Hopkins*, 118 U. S. 356, 370; *Thornhill* v. *Alabama*, 310 U. S. 88, 97-103; *West Virginia State Board of Education* v. *Barnette*, 319 U. S. 624, 641; *Thomas* v. *Collins*, 323 U. S. 516, 543; *Newport Bridge Co.* v. *U. S.*, 105 U. S. 470, 482.

The fundamental significance of the liberties of freedom of speech, press, thought, association and assembly lies in the fact that it is only by and through the exercise of these liberties together with the liberty of suffrage that the people may discharge the great governmental functions which fall upon their shoulders. These liberties are no mere private rights secured to serve individual happiness but duties, powers and functions of government, the instruments and means whereby the people equip themselves to discharge their far-reaching responsibilities of state with maximum wisdom and judgment. *Thornhill* v. *Alabama*, 310 U. S. 88, 95-103;

De Jonge v. *Oregon*, 299 U. S. 353, 364-5; *Pennekamp* v. *Florida*, 328 U. S. 331, 350.

In consequence, in the exercise of these liberties within the area of matters of national concern the people act as instruments and agencies of the Federal government. They assert and act under national authority. Under the principle of the Division of Powers the States have no jurisdiction to so act as to impede, obstruct or intrude into the jurisdiction of any agency possessed of Federal authority. U. S. Const. Art. VI, Sec. 2; *Tarble's* Case, 13 Wall. (U. S.) 397; *McCulloch* v. *Maryland*, 4 Wheat. 316; *Davis* v. *Elmira Savings Bank*, 161 U. S. 275; *Tennessee* v. *Davis*, 100 U. S. 257; *La Crosse Telephone Corp.* v. *Wisconsin Employment Relations Board*, 93 L. Ed. (Adv. Op.) 265. No one would pretend, for example, that a State had power or jurisdiction to call upon any Federal judge to account as to the manner in which he was proceeding in any case at trial in a Federal court. No more may any State call upon the people, acting as the people of the United States, to account as to the manner in which they are proceeding through the exercise of their liberties of speech and thought to determine the highest Federal issues of all, those affecting the Nation's destiny and guiding policies.

Moreover, the division of powers between the States and the Federal government does not exhaust the immunity of the people in thought and speech. The Constitution not only allocates power as between the State and Federal governments but it also allocates power in certain respects as between the people and all governments whatever, State or Federal. The Constitution affirmatively reserves to and allocates to the people the power and authority of ultimate control over State governments as well as over the Federal government and it secures to them the liberties of speech and thought in matters of public concern to the end

that they may maintain and realize that ultimate control.[5] This is "the modicum of freedom of thought, speech and assembly which all citizens of the Republic may exercise throughout its length and breadth, which no State, nor all together, nor the Nation itself, can prohibit, restrain or impede." (*Thomas* v. *Collins*, 323 U. S. 516, 543). This modicum lies at the very core of our democratic system. It is within its area that respondents intrude in the instant case. This they have no right to do.

So long, therefore, as no more is involved than exercises of the great sovereign liberties secured by the First Amendment, the manner in which the people may choose to exercise those liberties is a matter lying entirely outside the lawful interest of and beyond the jurisdictional power of all agencies whatever save and except the people themselves.

B. *The Oath and Affidavit is Unconstitutional per se Because Laid Specifically and Directly on Exercises of First Amendment Liberties as such.*

In utter disregard of the above-discussed fundamental constitutional principles, the State here would require petitioners and 20,000 other members of the people to account under oath to it simply and solely for exercises of various First Amendment liberties. It would require first and foremost that they account to it as to their membership in or support of 144 associations and organizations devoted to causes of public moment. But membership in or support of such associations is but an exercise of the liberties of freedom of assembly and association.[6] Again, by including

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[5] This it does by the First, Ninth, Tenth and Fourteenth Amendments and by Article IV, Sec. 4 and by its provisions in whole.

[6] It is likewise an exercise of freedom of speech for in the circumstances of our time the primary media for communication of ideas are economically and technologically beyond the reach of individuals save

on its list a named religious organization, the Humanist Society of Friends, (P. 23; S. 21), the State would compel petitioners to disclose under oath their adherence or non-adherence to a particular religious creed. Yet the right to embrace or reject any religious creed is clearly an exercise of freedom of religion. *United States* v. *Ballard*, 322 U. S. 78, 86-87. The State here would also require accounting to it for "support" or "following" of a named newspaper and a named magazine, The Daily Worker (P. 22; S. 20), and The New Masses (P. 24; S. 22). But "supporting" newspapers and magazines to the end that the same may be published and circulated and "following" of such publications by reading or subscribing thereto patently are exercises of freedom of press. *Martin* v. *Struthers*, 319 U. S. 141, 143.

In *Murdock* v. *Pennsylvania*, 319 U. S. 105, this Court held that the State governments may not levy any license or revenue taxes directly on freedom of speech or of the press however nominal the amount; because the people derive authority to exercise those liberties directly from the First Amendment, a State tax there is impermissible *per se*. The principle underlying this decision is applicable to all assertions of State power whatever. No State may by any assertion of power whatever reach specifically and directly to or assert jurisdiction *eo nomine* over any of the liberties secured by the First Amendment as California here has attempted to do. It is the character of the right not of the limitation which governs and controls. *Thomas* v. *Collins*, 323 U. S. 516, 530. Additionally, the character of the limitation here, viewed even in its least burdensome

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those in the highest circles of wealth and it is only by and through the collective resources of associations that many among our people may effectively voice their wants or ideas at all. Cf. *Martin* v. *Struthers*, 319 U. S. 141, 146. Freedom of speech means effective, not nominal, freedom and it extends to men of humble means no less than to those with wealth and estate. *Murdock* v. *Pennsylvania*, 319 U. S. 105, 111.

light, is one which has been expressly condemned by this Court. In the *Thomas* case this Court ruled that compulsory identification whereby the speaker is required to disclose to and register with the State the name of the cause he supports or the organization with which he is affiliated is a limitation invalid *per se* even though no area of discretion be reserved to State officers to approve or disapprove the speech of the individual or organization concerned and even though the registration be a purely ministerial act undertaken for information purposes only. Though such restraint be thought nominal in burden, the limitation is invalid as "a matter of principle." (323 U. S. 516, 539). So here.

C. *The Oath and Affidavit is Unconstitutional Because Part of a State Program which is Void on its Face as a System for the Registration and Judgment of Thought, Speech and Association Under Wholly Arbitrary and Ill-Confined Standards.*

The compulsory disclosure required here by the State is, moreover, one which is calculated to place on the liberties secured by the First Amendment no mere nominal burden improper in principle alone but rather the heaviest and most intolerable burden of all known to history, the deadening restraint of arbitrary censorship over the content of thought and speech. Paragraph "D" of the Oath and Affidavit is not asked by the State for any statistical or other equally casual and innocent purpose. It is imposed for the purpose of requiring registration with the State of the thoughts and associations of County employees to the end that such thoughts and associations may be measured, evaluated and judged under standards of permissibility so loosely cast and ill-confined as to permit wholly arbitrary judgment and evaluation in their name. This is the key

mark of censorship. Whether the censor operates through a penal statute so loosely drawn and ill-confined as to permit discretionary and discriminatory enforcement (*Thornhill* v. *Alabama*, 310 U. S. 88), through a statute permitting the enjoining of publications under standards similarly defective (*Near* v. *Minn.*, 283 U. S. 697), or through the classic medium of a licensing system permitting the withholding of licenses under like defective standards (*Schneider* v. *Irvington*, 308 U. S. 147; *Lovell* v. *Griffin*, 303 U. S. 444), the distinguishing feature and vice which marks the censor wherever he may appear and however he may operate is his power to judge the content of thought and speech under standards so ill-confined as to permit him to approve or disapprove thereof according to his prejudices.

Precisely such power is asserted here. As alleged in the complaint and admitted by the demurrer the County Board of Supervisors devised the entire program of State investigation here, including Paragraph "D" of the Oath and Affidavit, as a means to the declared objective of uncovering "communistic" and "subversive" persons in County employment (P. 4-5; S.). To this end it has specifically directed the committee charged with administering the Oath and Affidavit to uncover and report employees whose thought and speech mark them as "subversively inclined" persons (P. 18; S. 17). These standards of evaluation—"subversively inclined" persons and persons who are "communistic" or "subversive"—are standards possessed of no ascertainable meaning. They place no limits on their interpretation by those who may administer them save the arbitrary discretion of such administrators themselves. Who can say what thought or speech meets or fails to meet such ill-confined standards or what questions aimed at creed, association or conscience are appropriate and legitimate to uncovering violations thereof? If in the name

of uncovering possible violations of such standards the State may today ask the questions in Paragraph "D" of the present Oath and Affidavit, tomorrow it may equally well ask such ominous questions as "Are you a Catholic?" or "Are you a Jew?". Indeed, it already asks, "Are you a member of the Humanist Society of Friends?" (P. 23; S. 21). And apart from religion, under the Oath and Affidavit the employee is held accountable for thought, speech and association covering an intellectual area shocking in breadth. If any chance answer by him thereunder reveals unorthodoxy under any of the standards above mentioned he faces public stigmatization by the State as a "subversive and disloyal" citizen (P. 5-6; S. 4) and discharge from County employ (P. 5-6; S. 4). To be safe he must keep his mind blank on virtually all controversial issues of the day. Mindful of the broad scope of political and civic affairs covered by the organizations and publications listed in the Oath and Affidavit, he must avoid thought not only on the great international questions of our day presented by the issue of private property versus socialization of the means of production, but on a vast gamut of more transitory questions as well such as the defense of labor leaders like Tom Mooney, support for the Spanish Loyalists, the struggle for Indonesian independence, price and rent control, the poll tax, the programs of small political parties such as the Farmer Labor Party, and many, many other matters of civic moment.

It is no answer to say, as did the court below, that an employee may not be discharged even though his answers to Paragraph "D" of the Oath and Affidavit indicate affiliation with or support of one or more of the listed organizations, or that if he is discharged he may ultimately win reinstatement by administrative or judicial review (P. 63). It is not the certainty of disapproval and penalty that renders void all systems of arbitrary discretionary

censorship in the area of freedom of speech but rather the mere potentiality for such disapproval and penalty. Proof of an abuse of power in the particular case has never been deemed a requisite for an attack on the constitutionality of systems of censorship over the content of speech and thought. The power of the censor is pernicious not merely by reason of particular acts of censure but by reason of the very threat to censure at all. It is not the sporadic abuse of power by the censor which is prohibited by the Constitution but the pervasive threat inherent in the very existence of any censorial system. *Thornhill* v. *Alabama*, 310 U. S. 88, 97. Because of this even one who might through the favor of the licensor obtain a license for the asking, may attack the constitutionality of any system for the licensing of speech without even applying for a license. *Lovell* v. *Griffin*, 303 U. S. 444; *Hague* v. *Committee for Industrial Organization*, 307 U. S. 496. He need not submit his application for approval or disapproval at all. So here petitioners need not submit their thoughts and associations to the State for approval or disapproval but may challenge the action of the State in its entirety as being void on its face.

D. *The Oath and Affidavit Is Unconstitutional Because Premised Upon Guilt by Association*

A final defect inheres in Paragraph "D" of the Oath and Affidavit here in the total absence of any rational relation between the questions asked and any constitutionally permissible object of inquiry, if the existence of any right to inquire at all be assumed for purposes of argument. For if the object of inquiry be confined to any permissible constitutional limits, then the questions asked concerning membership in or support of the listed organizations and publications can bear no reasonable relation to the end sought. The County Board of Supervisors

itself in the Committee Report which it adopted (P. 4-5; S. 4) freely concedes that the listed organizations and publications are possessed of "publicly alleged purposes which have every appearance of being patriotic and worthy" (P. 17-18; S. 16). Membership in or direct or indirect support or following of such organizations and publications will support no inference save one of good citizenship. Even were it assumed for purposes of argument that in such organizations there might be some members secretly harboring one or more impermissible objectives in addition to or at war with the public legitimate programs thereof, still no inference that he shares such impermissible objects could be imputed to any member or supporter of the organization on the basis of his membership or support alone without imputing guilt from the merest act of association. This, freedom of speech prohibits. Under our tradition beliefs are personal and not a matter of mere association. *Schneiderman* v. *United States*, 320 U. S. 118. The question, if the rights of freedom of speech, association and assembly are to be preserved, must be directed not to the auspices under which a meeting was held but to the public speeches delivered thereat, not to the secretly harbored objectives of other members within an organization but to the public purpose and program espoused by the organization itself. *DeJonge* v. *Oregon*, 299 U. S. 353, 365. Cf. *Bridges* v. *Wixon*, 326 U. S. 135 143, *et seq.*

II. The requirement under Paragraph "D" of the Oath and Affidavit that petitioners disclose to the State membership in or direct or indirect support or following of any of 144 named lawful organizations and 2 named lawful publications listed by the State violates petitioners' personal rights to maintain silence concerning their private beliefs and associations, and to be free from compulsory disclosure of matters of private conscience, in contravention of the First and Fourteenth Amendments.

The liberties secured by the First and Fourteenth Amendments, in addition to their societal significance discussed above, possess a separate significance in terms of their essential value and import to the individual. Viewed in terms of this import they raise additional constitutional barriers to the compulsory disclosures required by Paragraph "D" of the Oath and Affidavit.

Without some minimal guarantees of private security and dignity, without some final area of absolutely privileged and protected individuality, men may find no worth, happiness or satisfaction in life no matter with what else government may provide them.

Part of this we express when we say a man's home is his castle. The Constitution through the Fourth Amendment bars the state from entering that castle save where a warrant has issued on probable cause.

But if a man's home is his castle his mind is the innermost sanctuary thereof, the last and ultimate of all refuges of the individual. If a man's very thoughts be not privileged, then where seek the sanctity and dignity of the individual at all?

Paragraph "D" of the Oath and Affidavit requires disclosures affecting not acts or conduct but thoughts, beliefs and associations. The State of California asks not what the citizen has done but what he has read, what beliefs

he has "followed" or "supported," with what causes he has been affiliated. All of these reach to and invade privacy of thought, mind and conscience. Under the Constitution and under controlling decisions of this Court that are is absolutely privileged against such invasion.

In *Cantwell* v. *Connecticut*, 310 U. S. 296, 303, this Court declared that freedom of religion under the First Amendment "embraces two concepts,—freedom to believe and freedom to act." The first, this Court averred, is "absolute" and in consequence, government may not in any way restrict the individual's "freedom of conscience and freedom to adhere to such religious organization or form of worship as the individual may choose." The second concept embraced by freedom of religion, freedom to act, is not and by nature cannot be absolute. Conduct must be subject to reasonable regulation if society is to endure. But thought, acceptance of creed and adherence to the religious organization of one's choice—these under freedom of religion are absolutely privileged.

That the instant case involves a violation of the absolute privilege attending thoughts, beliefs and adherences to creeds, causes and organizations of one's choice in the area of secular rather than religious affairs is without consequence.[7] The First Amendment gives freedom of mind the same security as freedom of conscience. *Thomas* v. *Collins*, 323 U. S. 516, 531; *Prince* v. *Massachusetts*, 321 U. S. 158, 164. Whether the subject be politics, nationalism or religion, it is the purpose of the First Amendment to reserve the sphere of intellect and spirit from all official invasion or control, and no official, high or petty, may under our Constitution force citizens by word or act to confess faith in mere matters of opinion. *West Virginia State Board of*

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[7] Indeed adherence to the religious organization of one's choice is itself directly infringed in this case in the question concerning the Humanist Society of Friends.

Education v. *Barnette*, 319 U. S. 624, 642. Men may believe even what they are unable to prove or publicly defend, and no governmental body may hold men to answer for the verity or worth of their beliefs for to pretend to such authority is to enter a wholly "forbidden domain." *United States* v. *Ballard*, 322 U. S. 78, 86-87.

The immunity of the conscience and mind of individuals is one of the great personal rights of our people and it is not to be lightly surrendered for it was dearly purchased. It derives from a long and bitter struggle centering fundamentally around the use by government of "test oaths" indistinguishable in principle from the Oath and Affidavit in the instant case, a struggle which reaches back far into the history of this nation and of England. In Sixteenth Century England the state religion through the ecclesiastical courts sought to employ test oaths to search out religious heresy. Under the procedure an accused was brought to trial, placed under oath and then interrogated concerning his religious beliefs. Sir Edward Coke, Chief Justice of Common Pleas, granted a writ of prohibition against the procedure in *Edward's* Case, 13 Rep. 9, declaring that:

> "... in cases where a man is to be examined upon his oath, he ought to be examined upon acts or words and not of the intentions or thoughts of his heart; and if any man should be examined upon his oath of the opinion he holdeth concerning any point of religion, he is not bound to answer the same."

Despite the decision in *Edward's* Case, test oaths persisted in England, and the Court of the Star Chamber, perceiving their utility, sought to utilize such oaths to suppress political dissent and heresy. Again the sanctity of mind and conscience fought for vindication. In 1639 one John Lilburn was summoned before the Star Chamber in the course of this struggle and before that body, Lilburn

refused to answer questions "concerning other men, to insnare me, and to get further matters against me." For this he was condemned to be whipped and pilloried (see 3 How. St. Trials 1315, *et seq.*). But though Lilburn was whipped, the case of "Freeborn John" smashed the inquisition program of the Court of the Star Chamber. In 1641, only two years after Lilburn's trial, Parliament abolished the Court of the Star Chamber and enacted a statute providing that test oaths might no longer be administered on penal matters.

Opposition to test oaths was a matter of strong feeling among the American colonists. It was among the factors which led to the drafting of the Bill of Rights when our Constitution was framed. And as this Court has observed, it cannot now be denied that the Constitution was intended to outlaw in this nation the religious test oaths of English history. *Bridges v. California*, 314 U. S. 252, 265.

The Oath and Affidavit in the instant case bears the evil taint of all test oaths. It reaches directly to and invades the domain of beliefs and opinion, both religious and secular. Like all of its historical predecessors it invades the uttermost refuge of all, a man's mind, to accuse the citizen from out of his own mouth of heretical beliefs and associations. It subverts the presumption of innocence and assumes before hearing that guilt exists warranting forfeiture of livelihood and public stigmatization and it offers the citizens so summoned for judgment only one avenue of escape—"by an inquisition in the form of an expurgatory oath into the consciences of the parties." *Cummings* v. *Missouri*, 71 U. S. (4 Wall) 277, 327. See also *Ex Parte Garland*, 71 U. S. 333. Accordingly, as a test oath and an invasion of the absolutely privileged area of the inviolate conscience of individuals, Paragraph "D" of the Oath and Affidavit is obnoxious to the Constitution and void.

III. The requirement under Paragraph "B" of the Oath and Affidavit that petitioners disclose to the State whether they have since December 7, 1941, ever advocated or been a member of any political party or organization that advocates the overthrow of the governments of the United States, the State of California or the County of Los Angeles by force or violence deprives petitioners of freedom of speech, press, thought, association and assembly and of their personal rights to maintain silence concerning their private beliefs and associations in contravention of the First and Fourteenth Amendments.

Paragraph "B" of the Oath and Affidavit also violates the liberties secured by the First Amendment in both the societal and individual significations of those liberties, though in perhaps a less extreme manner and degree. It requires petitioners to answer under oath whether they have since December 7, 1941 ever advocated or been a member of any political party or organization that advocates the overthrow of ~~the governments~~ of the United States, the State of California, or the County of Los Angeles by force or violence (P. 19; S. 17-18). Absent limitations comporting with the clear and present danger test, which are nowhere provided in the instant case, such a requirement reaches to protected speech, thought and association.

By its very terms the compulsory disclosure here is aimed at mere *advocacy,* not at conduct nor even at advocacy inseparably intertwined with conduct. This the Constitution squarely prohibits. The command of the First Amendment is unequivocal and absolute:

> "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; . . ."

The meaning of this language cannot be misread. Within the area of free speech, press and religion it says that Congress shall make *no law*. It gives to advocacy of ideas, as distinguished from acts and conduct, an absolute immunity and under its mantle men may debate and buffet about in the marketplace of thought any idea whatever. It does not provide that Congress may make no law abridging freedom of speech save and except speech deemed hateful, reprehensible or unwise. It says *no law*; it means *no law*. Whatever the content of the idea, however foolish or hateful it may be deemed by government, under the First Amendment government must content itself with regulating resultant acts and conduct and may not regulate or interfere with the idea itself or the mere advocacy of the idea. For in the area of advocacy and ideas the competition of free debate in the marketplace of thought is conceived as affording the only control acceptable or indeed needful in a free society.

The clear and present danger rule is no exception to this unyielding principle of the First Amendment. That rule amounts only to an effort to define the line between advocacy and action in the twilight zone between the two. It carves out no area of advocacy which may be regulated or proscribed because of the content of the ideas advocated. It seeks only to define where and at what point advocacy of any idea passes so far over into action and conduct as to cease to be advocacy and to thereby lose the immunity of advocacy. That point is not easily defined. As with day and night, advocacy and action upon occasion may so blend one into the other that the boundaries of each may be most difficult to declare. The clear and present danger rule establishes that for purposes of free speech the line between advocacy and action is to be drawn where, because of particular circumstances demonstrated in particular cases, the advocacy concerned flows inseparably into action threaten-

ing immediate and pressing danger to the state. *Bridges* v. *California*, 314 U. S. 252; *Thornhill* v. *Alabama*, 310 U. S. 88; Holmes' and Brandeis' opinions in *Gitlow* v. *New York*, 268 U. S. 652 and *Whitney* v. *California*, 274 U. S. 357. Only then may the state interfere.

This is fundamentally different from declaring that advocacy of certain ideas may be proscribed merely because the content of those ideas is thought reprehensible or hateful. Though it may be difficult in twilight areas to say when day has become night or advocacy has become inseparably joined with action, still the difference between the two categories in each instance remains. Accordingly, where advocacy has not merged with action and conduct, it remains ever advocacy and as such immune from governmental regulation whatever the content of the ideas advocated.

These fundamental principles are decisive in the instant case. Paragraph "B" of the Oath and Affidavit reaches to advocacy *eo nomine*. True the advocacy concerns the idea of the overthrow of government by force and violence. But the words "overthrow" and "force and violence" describe the content of the ideas advocated, not action or conduct undertaken, and the mere advocacy as such of that idea may no more be suppressed than may advocacy of any other idea.

This was made clear by Mr. Justice Holmes in his dissent in the *Gitlow* case, *supra*, where the gravamen of the charge against Gitlow was publication of a document advocating overthrow of government by force and violence.

> "If the publication of this document had been laid as *an attempt* to induce an uprising against government *at once*, and not at some indefinite time in the future, it would have presented a different question . . ."
>
> ". . . If, in the long run, the beliefs expressed in proletarian dictatorship are destined to be accepted by

> the dominant forces of the community, the only meaning of free speech is that they should be given their chance and have their way."—*Gitlow* v. *New York*, 268 U. S. 652, 673. [Emphasis added.]

Mr. Justice Brandeis reached the same conclusions in the *Whitney* case, *supra*, where the defendant was charged with forming and belonging to an organization which advocated the overthrow of the government by force and violence (see 274 U. S. 357, 379). These views have been expressly adopted by majority decisions of this Court and are now the law. *Bridges* v. *California*, 314 U. S. 252, 262-263; *Schneiderman* v. *United States*, 320 U. S. 118, 137; *Thomas* v. *Collins*, 323 U. S. 516, 537; see also, *DeJonge* v. *Oregon*, 299 U. S. 353; *Herndon* v. *Lowry*, 301 U. S. 242; *Cantwell* v. *Connecticut*, 310 U. S. 296.

IV. The violations of freedom of speech, press, religion, thought, association and assembly in the instant case may not be excused merely because petitioners are county employees.

The Court below sought to justify its decision on the authority of this Court's decision in *United Public Workers* v. *Mitchell*, 330 U. S. 75, and also on the sweeping proposition that petitioners as government employees had bargained away any rights which might be affected by the Oath and Affidavit when they accepted government employment. Neither proposition is sustainable.

This Court in *United Public Workers* v. *Mitchell* had before it and decided no question comparable in any way to the issues here. The single question there presented and decided was whether a Federal statute prohibiting employees in the Executive Branch of the Federal government on pain of discharge from taking any "active part in political management or in political campaigns" could be

constitutionally upheld as applied to the narrow facts of the particular case there. As applied there the statutory restraint affected only an employee who had been a ward executive committee man of a political party and who had been politically active in an election as a worker at the polls and a paymaster over other party workers. This Court upheld the restraint as applied in that narrow case but expressly observed that it was deciding no more and that the case before it involved no limitation on the employee's freedom of speech save as he might be called on as a political committee man to speak specifically in that capacity, and that in all other respects his "expressions, public or private, on public affairs, personalities and matters of public interest" were unrestricted. *United Public Workers* v. *Mitchell*, 330 U. S. 75, 94, 100.

No such narrow and limited interference with freedom of speech is involved here. To the contrary, in the case at bar, within the sweeping area of intellectual subjects indicated by the 144 listed lawful organizations and 2 lawful publications, the State seeks to demand compulsory accounting to it by petitioners of the manner in which they have exercised all of the great liberties of speech, press, thought, association and assembly in violation of the privacy of their conscience and in a manner calculated to interfere with, coerce and intimidate them in the performance of their sovereign duties as persons and citizens. *United Public Workers* v. *Mitchell* affords the State no comfort in its assertion of such unconstitutional command.

Neither may the State justify its action on the basis of any considerations growing out of the employee status of the petitioners. The court below sought to so justify and support its decision by arguing that petitioners "impliedly surrendered" or bargained away their rights to freedom of speech and its correlatives by accepting gov-

ernment employment (P. 51), and by arguing that wherever the State stands in the position of an employer it enjoys, just as any private employer, complete right to "demand unquestioned loyalty in the manner it lays down." (P. 60).

These attempted justifications fundamentally misconceive the true position and relation of the parties. Petitioners may be County employees but notwithstanding that they remain members of the American people as well. The restrictions on freedom of speech worked in the instant case reach immediately to 20,000 such members of the American people, all of whom, like petitioners, are employed by the County of Los Angeles. And if the example of the instant case be upheld, then like restrictions may be imposed on 10% of the entire population of our nation for today one out of every ten persons is employed by either Federal, State or Local government.[8] Moreover, even as government employees remain persons and citizens, so too governments even though they become employers remain always something more and something less than private employers—they always remain *governments*. The County of Los Angeles is no exception. Being a governmental body, the County, no matter that it chooses to call itself here an "employer", remains for all that a government bound by the limitations of the Federal Constitution. Under those limitations it possesses no power to and should have no desire to invade the area of the sovereign liberties reserved to the people of the United States or to seek to coerce or intimidate the people or any one or more among them in their exercise of those liberties.

The concept that an employee must be loyal to his employer is a concept pregnant with the gravest dangers and

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[8] (See footnote 5, *supra*).

errors if it be applied as a ready-made pattern to government viz-a-viz citizens. Loyalty there is no such simple concept. But however the loyalty properly owed by the people may be conceived and defined, certain it is that the core of that loyalty must include steadfast and faithful discharge of their sacred obligation under the Constitution to think and speak freely, fearlessly and according to their honest conscience on all subjects of public concern to the end that they may "shape the destiny" of this nation as wisely as their most conscientious efforts may enable them. This the State's action here wholly fails to apprehend and respect, yet this is the deepest trust of all imposed by our compact of government. It is laid on the shoulder of all citizens equally however they may earn their living and whoever may be their employer.

It is a legitimate and worthy interest on the part of any State government to seek to strengthen and secure the form of government created and established by the Constitution and to preserve it from real disloyalty or attack from whatever quarter. But the action here undertaken betrays a tragic misconception as to means appropriate to such end. To establish security standards where uniquely necessary for government employees holding sensitive jobs vital to national security may be one thing but it is another and tragically different thing which is undertaken here. Here, in the name of preserving our constitutional form of government, the State would destroy its most important foundational block—the free exercise according to conscience by the American people of their sovereign liberties to freedom of speech, thought and association. Without these the shell of our proud way of life may remain, but there can be no life within. Only free men can possess a free nation.

Finally, to suggest that citizens by private employment contracts or any other contracts with government officers

may bargain away or "impliedly surrender" their duty under the Constitution to exercise their sovereign liberties of speech, press, thought, association and assembly according not to the instructions of others but to the dictates of their honest conscience alone, is to suggest a dishonor to the nation. Petitioners in the instant case could not even if they would sell in private contract those sovereign liberties of a free people which their forefathers secured for them by mutually pledging their lives, their fortunes and their sacred honor.

Conclusion

WHEREFORE, the Petitions for Writs of Certiorari to the District Court of Appeal of the State of California, Second Appellate District, should be granted.

Respectfully submitted,

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APPENDIX "A"

Oath and Affidavit

DEPARTMENT .....

A. OATH OF OFFICE OR EMPLOYMENT

I, ..., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution and laws of the State of California, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office or employment on which I am about to enter or am now engaged. So Help Me God.

B. AFFIDAVIT RE SUBVERSIVE ACTIVITY

I do further swear (or affirm) that I do not advocate, nor am I now a member, nor have I been since December 7, 1941, a member of any political party or organization that advocates the overthrow of the Government of the United States, or State of California, or County of Los Angeles, by force or violence, except those specified as follows: ..... and that during such time as I am an officer or employee of the County of Los Angeles, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the Government of the United States, or State of California, or County of Los Angeles by force or violence.

C. AFFIDAVIT RE ALIASES

I do further swear (or affirm) that I have never used or been known by any names other than those listed as follows:

.....

D. MEMBERSHIP IN ORGANIZATIONS

I do further swear (or affirm) that I have never been a member of, or directly or indirectly supported or followed

any of the hereinafter listed organizations, except those which I indicate by an X mark.

Name	Volume	Page
Abraham Lincoln Brigade	43	140
Academic and Civil Rights Council of California	43	97
	47	103
After School Clubs	43	300
Agitprop	43	35
American Artists Congress	47	82
America for Americans	43	280
American Comm. for a Free Indonesia	47	56
American Comm. for Democracy and Intellectual Freedom	47	202
American Comm. for Protection of the Foreign Born	47	452
		202
		219
American Comm. to Save Refugees	47	45
Americans Communications Assn.	43	141
	47	72
		163
		210
American Communist Party	43	116
American Council on Soviet Relations	47	202
American Federation for Political Unity	43	96
American Friends of the Chinese People	47	45
American Guard	43	259
American League Against War and Fascism	43	93
American League for Peace and Democracy	43	135
	47	202
American League of Christian Women	43	259
American Peace Mobilization	43	96
American Russian Institute	47	88
		103
American Society for Technical Aid for Spain	47	313
American Student Union	43	115
American Veterans Comm.	47	230
American Writers Congress	45	122
American Youth Congress	43	98
American Writers School	47	70
American Youth for Democracy	47	21
Anti-Axis Comm.	43	345
Anti-Hearst Examiner	43	119
Anti-Nazi League	43	42
Anti-Nazi League of Hollywood	43	96
Anti-ROTC Committee	43	98
Arcos Limited	43	98
Artist Front to Win the War	47	191

Name	Volume	Page
Arts Advisory Council	47	94
Authors League	47	286
Ballila	43	301
Bay Area Council Against Discrimination	47	209
California Conference for Democratic Action	47	170
California Labor School	47	47
California Youth Legislature	43	96
	47	209
Centro Anti-Communists	43	201
China Aid Council of American League for Peace and Democracy	47	313
Citizens Committee for Better Education	47	56
Citizens Comm. for Defense of Mexican-American Youth	43	216
Citizens Comm. to Free Earl Browder	47	213
Citizens Comm. to Support Labors Right	47	187
Citizens No Foreign Wars Coalition	43	251
Civil Rights Congress	47	55
Civil Rights Council for Northern California	47	209
Comintern	43	39
Comm. for Boycott Against Japanese Aggression	47	202
Comm. for Defense of Mexican-American Youth	47	97
Comm. for Support of S. W. Garson	47	210
Comm. Protesting Attacks Against the Abraham Lincoln Brigade	47	210
Comm. to Defend America by Keeping Out of War	47	202
Communist International	43	93
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Subscribed and sworn to before me this .....

day of ....., 1947.

J. P. MORONEY,
County Clerk,

By .....
Deputy.